

S/N 10/025,183

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jeffrey A. Von Arx et al. Examiner: George C. Manuel
Serial No.: 10/025,183 Group Art Unit: 3762
Filed: December 19, 2001 Docket: 279.391US1
Title: AN IMPLANTABLE MEDICAL DEVICE WITH TWO OR MORE
TELEMETRY SYSTEMS

STATEMENT OF FACTS UNDER 37 C.F.R. § 1.705(b)(2) IN SUPPORT OF
APPLICATION FOR PATENT TERM ADJUSTMENT

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The following is a statement of facts in support of the application for patent term adjustment.

Applicants have calculated the correct patent term adjustment as 167 days, which was calculated as follows:

The date that is three months after the Office Action (Mailed on December 10, 2008)) is March 10, 2008. Applicants' compliant response to the first Office Action was received by the USPTO on May 12, 2008. The difference between these two dates is 63 days debit from Applicants' patent term [APPL(Days)]. However, the USPTO has debited from Applicants' patent term [APPL(Days)], the above 63 days twice in the calculations (i.e. $63+63=126$ Days). Additionally, the date that is four months after the Response to the above Office Action (Response Received on May 12, 2008) is September 12, 2008. The Notice of Allowance was mailed by the USPTO on September 18, 2008. The difference between these two dates is 6 days credit to the Applicants' patent term [PTO (Days)]. However, the USPTO has credited to the Applicants' patent term[PTO (Days)], the above 6 days twice in the calculations (i.e. $6+6=12$ Days). Omitting the duplications, the PTA now become 167 Days instead of 110 Days as calculated in PAIR PTA.

The patent issuing on this application **IS NOT** subject to a terminal disclaimer.

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Applicant has detailed above any circumstances during the prosecution of the present application that may constitute a failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704.

As set forth above, Applicants' patent term adjustment should be 167 days, and Applicants respectfully request notification to that effect. The Commissioner is invited to contact Applicants' attorney at (612) 373-6951 with any questions concerning this submission.

Respectfully submitted,

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Date December 28, 2009

By Paul J. Urbanski
Paul J. Urbanski
Reg. No. 58,351

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 28 day of December, 2009.

Richard Beck

Name

/Richard Beck/

Signature